

AMENDED IN SENATE APRIL 25, 2002

**SENATE BILL**

**No. 1666**

**Introduced by Senator McPherson**

February 21, 2002

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~~An act to add Chapter 1.9 (commencing with Section 1900) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts. An act to amend Section 10214.5 of the Unemployment Insurance Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1666, as amended, McPherson. ~~Public contracts~~ *Employment Training Panel: funds.*

*Existing law requires the Employment Training Panel to prepare a budget to cover necessary administrative costs of the panel, and authorizes the panel to utilize funds in the Employment Training Fund for, among other expenditures, reasonable training costs and administrative costs incurred by contractors performing services for the panel. Existing law also authorizes the panel to allocate up to 10% of its annual training funds to fund training projects that improve the skills and employment security of frontline workers, as defined.*

*This bill would permit the Employment Training Panel to allocate funds in the Employment Training Fund for small business skills training of small business owners who meet specified criteria.*

~~Existing law requires state agencies to give small businesses a 5% preference in contracts for construction, the procurement of goods, or the delivery of services.~~

~~Existing law also authorizes a local agency to provide for a small business preference in construction, the procurement of goods, or the delivery of services, and establishes a subcontracting participation goal~~

~~for small businesses on contracts with a preference for those bidders who meet the goal.~~

~~This bill would enact the “California First” Procurement Act to express the intent of the Legislature that California-based business bidders have precedence over non-California-based business bidders in the application of any bidder preference for which non-California-based business bidders may be eligible.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 ~~SECTION 1. Chapter 1.9 (commencing with Section 1900) is~~  
2 *SECTION 1. Section 10214.5 of the Unemployment*  
3 *Insurance Code is amended to read:*  
4 10214.5. (a) The panel may allocate up to 10 percent of the  
5 annually available training funds for the purpose of funding  
6 special employment training projects that improve the skills and  
7 employment security of frontline workers, as defined in  
8 subdivision (a) of Section 10200. Notwithstanding any other  
9 provision of this chapter, participants in these projects are not  
10 required to meet the eligibility criteria set forth in paragraph (1) of  
11 subdivision (a) of Section 10200 or subdivision (c) of Section  
12 10201.  
13 (b) *The panel may allocate training funds for small business*  
14 *skills training to small business owners who meet the definition of*  
15 *frontline workers under the following conditions:*  
16 (1) *For the purposes of this subdivision, the following*  
17 *definitions of “owner,” “employee,” and “frontline worker” shall*  
18 *apply:*  
19 (A) *An “owner” shall be registered as a California employer*  
20 *with the Employment Development Department and shall be*  
21 *currently subject to the unemployment insurance (UI) tax on*  
22 *behalf of the business’ employees. An “owner” is also both of the*  
23 *following:*  
24 (i) *One or more individuals, each having all or a substantial (at*  
25 *least 20 percent) financial investment in a business.*  
26 (ii) *Directly involved full time in the day-to-day operation of*  
27 *the business.*

1 (B) The spouse of an “owner” also qualifies as an “owner” if  
2 the spouse is directly involved in the day-to-day operation of the  
3 business.

4 (C) An “employee” is an individual receiving monetary  
5 compensation while working full time for a business that is paying  
6 into the Unemployment (UI) fund on behalf of the employee for at  
7 least six months prior to the first day of training for the owner. For  
8 purposes of this subdivision, an individual cannot be leased or  
9 assigned from a temporary employment agency or other provider  
10 as an employee.

11 (D) The owner may not be counted as an employee of the  
12 business to meet the number of full-time employees requirement.

13 (E) “Frontline worker” means an individual who is one of the  
14 following:

15 (i) Not exempt from overtime under state or federal law,  
16 providing he or she directly produces or delivers goods or services.

17 (ii) Covered by a collective bargaining agreement, providing  
18 he or she directly produces or delivers goods or services.

19 (iii) Exempt from overtime under state or federal law and not  
20 covered by a collective bargaining agreement if his or her primary  
21 job responsibility is directly producing or delivering goods or  
22 services.

23 (iv) For purposes of special employment training projects, a  
24 frontline worker may also be the owner of a business with at least  
25 one, but less than 10 full-time employees, and whose primary  
26 duties consists of directly producing or delivering goods or  
27 services.

28 (2) Wages after training do not apply to small business owner  
29 training, as owners typically do not receive an hourly wage.

30 (3) Training shall be in business management or other related  
31 skills needed to operate a successful business, including, but not  
32 limited to, developing a business or marketing plan, tax  
33 requirements, and permit and licensing procedures.

34 (4) In addition to other requirements of the contract, to qualify  
35 for reimbursement, an owner shall certify at completion of the  
36 training that he or she employs at least the same number of  
37 employees on the 91st day after the completion of the owner’s  
38 training as were employed at the start of the owner’s training.

39 (c) The panel shall, on an annual basis, identify industries and  
40 occupations that shall be priorities for funding under this section.

1 Training shall be targeted to frontline workers who earn at least the  
2 state average weekly wage.

3 ~~(e)~~

4 (d) The panel may waive the minimum wage provisions  
5 pursuant to subdivision (f) of Section 10201 for projects in regions  
6 of the state where the unemployment rate is significantly higher  
7 than the state average, and may waive the employment retentions  
8 provisions specified in subdivision (f) of Section 10209 and  
9 instead require that the trainee has been retained in employment  
10 for a minimum of 90 days out of 120 consecutive days after the end  
11 of training with no more than three employers.

12 ~~(d)~~

13 (e) The panel shall adopt minimum standards for consideration  
14 of proposals to be funded pursuant to this section.

15 ~~(e)~~

16 (f) The panel may select contracts funded under this section  
17 based on competitive bidding.

18 ~~(f)~~

19 (g) It is the intent of the Legislature in providing the authority  
20 for these projects that the panel allocate these funds in a manner  
21 consistent with the objectives of this chapter as provided in Section  
22 10200.

23 ~~added to Part 1 of Division 2 of the Public Contract Code, to read:~~

24  
25 CHAPTER 1.9. ~~“CALIFORNIA FIRST” PROCUREMENT ACT~~

26  
27 1900. ~~This act shall be known and may be cited as the~~  
28 ~~“California First” Procurement Act.~~

29 1901. ~~The Legislature finds and declares the following:~~

30 (a) ~~It is the interest of the State of California to encourage all~~  
31 ~~public entities to procure goods and services from~~  
32 ~~California-based businesses.~~

33 (b) ~~Ensuring that all public entities first look to procure~~  
34 ~~commodities, supplies, technology, property, and services from~~  
35 ~~California-based business enterprises benefits the state and the~~  
36 ~~citizens of the state by increasing incentives to invest in California~~  
37 ~~businesses, expanding job opportunities for California citizens,~~  
38 ~~and strengthening the overall economy of the state.~~

39 1901.5. ~~Notwithstanding any other provision of law, it is the~~  
40 ~~intent of the Legislature that:~~

1 ~~(a) To the maximum extent feasible and allowable under law,~~  
2 ~~and where responsibility, quality, and cost are equal, that contracts~~  
3 ~~or subcontracts for commodities, supplies, technology, property,~~  
4 ~~and services be awarded by all public entities to California-based~~  
5 ~~business enterprises.~~

6 ~~(b) California-based business bidders have precedence over~~  
7 ~~non-California-based business bidders in the application of any~~  
8 ~~bidder preference for which non-California-based business~~  
9 ~~bidders may be eligible.~~

10 ~~(c) The preference contained in this chapter may not result in~~  
11 ~~the denial of the award to a small business bidder pursuant to~~  
12 ~~Chapter 6.5 (commencing with Section 14835) of Part 5.5 of~~  
13 ~~Division 3 of Title 2 of the Government Code. This chapter shall~~  
14 ~~apply to those cases where the small business bidder is the lowest~~  
15 ~~responsible bidder, as well as to those cases where the small~~  
16 ~~business bidder is eligible for award as the result of application of~~  
17 ~~the 5 percent small business bidder preference and incentive.~~

18 ~~1903. For purposes of this chapter:~~

19 ~~(a) "California-based company" means either of the~~  
20 ~~following:~~

21 ~~(1) A business or corporation whose principal office is located~~  
22 ~~in California, and the owners, or officers if the entity is a~~  
23 ~~corporation, are domiciled in California.~~

24 ~~(2) A business or corporation that has a major office or~~  
25 ~~manufacturing facility located in California and that has been~~  
26 ~~licensed by the state on a continuous basis to conduct business~~  
27 ~~within the state and has continuously employed California~~  
28 ~~residents for work within the state during the three years prior to~~  
29 ~~submitting a bid or proposal for a contract.~~

30 ~~(b) "Contract" means contracts or subcontracts for~~  
31 ~~commodities, supplies, technology, property, and services~~  
32 ~~awarded by a public entity, including:~~

33 ~~(1) Any agreement or joint development agreement to provide~~  
34 ~~labor, services, material, supplies, or equipment in the~~  
35 ~~performance of a contract, franchise, concession, or lease granted,~~  
36 ~~let, or awarded for and on behalf of the public entity.~~

37 ~~(2) Purchases made on behalf of the Legislature, whether made~~  
38 ~~by the Senate Committee on Rules, the Assembly Committee on~~  
39 ~~Rules, the Joint Rules Committee, or any other agency of the~~  
40 ~~Legislature.~~

1 ~~(c) “Public entity” means the state, including every state~~  
2 ~~agency, office, department, division, bureau, board, or~~  
3 ~~commission, a city, county, city and county, including chartered~~  
4 ~~cities and chartered counties, district, special district, public~~  
5 ~~authority, political subdivision, public corporation, or nonprofit~~  
6 ~~transit corporation wholly owned by a public agency and formed~~  
7 ~~to carry out the purposes of the public agency.~~

8 ~~(d) “Awarding department” means any public entity~~  
9 ~~empowered by law to enter into contracts on behalf of the public~~  
10 ~~entity.~~

11 ~~(e) “Contractor” means any person or persons, regardless of~~  
12 ~~race, color, sex, ethnic origin or ancestry, or any firm, partnership,~~  
13 ~~corporation, or combination thereof, whether or not a minority or~~  
14 ~~women business enterprise, who submits a bid and enters into a~~  
15 ~~contract with a representative of a public entity empowered by law~~  
16 ~~to enter into contracts.~~

